

## **AUDIT GUIDELINES**

### **Records Auditors will review:**

While the broker must maintain legible copies of all records for a minimum of three years, the list below shows some of the records that the auditor will typically review.

1. All sales and property management trust accounts and related records.
2. Sales Files – Pending and closed: All documents may not apply to each file examined.
  - A. Listing agreement
  - B. Buyer's agency agreement
  - C. Transaction brokerage agreement
  - D. Sale contract, along with any addendum's, special agreements, or attachments
  - E. Relationship disclosure
  - F. Closing statement(s)
  - G. All other documents and correspondence related to the transaction
3. Property Management Files
  - A. Property management agreements
  - B. Leases and rental agreements
  - C. Owner's statements and ledgers
  - D. Tenant's statements or ledgers
  - E. Paid Invoices and or receipts
  - F. Owner summary statements

### **Guidelines:**

The outline below shows the basic guidelines used by auditors when conducting routine audits. The auditors are not required to follow the outline exactly, and may examine more or less than the areas listed. The Department provides this outline to serve as a guide to licensees as they conduct their business.

1. Audits are done a cyclic or priority basis. Records must be available upon demand.
2. Audit Process
  - A. Business activities and administrative procedures
    - 1) Observe business sign, advertising, letterhead and business cards.
    - 2) Examine licenses of brokerage, broker and affiliated licensees.
    - 3) Check for use of different names
    - 4) Verify business address, telephone, fax and email numbers
    - 5) Determine if there are any branch offices.

- a) Who is the branch manager and how is the manager licensed?
- b) What business name is used?
- 6) Determine if there is any controlled and/or directed business arrangements?
- 7) The auditor will ask for brokerage statistics; Number of:
  - a) Trust accounts maintained;
  - b) Pending contracts;
  - c) Closed transactions in the past twelve months, or since last audit;
  - d) Current listing agreements;
  - e) Current transaction brokerage agreements;
  - f) Management agreements;
  - g) Owners and properties;
  - h) Leases; and
  - i) Units managed.

3. Trust Account Reconciliation: The auditor will generally examine bank records for all trust accounts for the twelve months preceding the audit date. However, the auditor may request up to three years of records if necessary.

- A. Bank statements: Each bank statement should include the corresponding canceled checks in numerical order and the related deposit slips.
- B. Check stubs, check register or other records of receipts and disbursements.
- C. The trust accounts are reconciled as of the examination date and compared to all liabilities.
- D. All voided checks are examined.
- E. All pending contracts, owner financial statements and security deposit records are examined to determine liabilities to the trust account(s).
- F. The auditor may ask to see the brokerage's trust account reconciliations.
- G. On property management trust accounts, the auditor will select a sample of checks paid from the account and examine the corresponding invoices or receipts to verify actual expenses.

#### 4. Pending Contract Examination

- A. The auditor will examine all pending contracts. Receipt(s), correspondence, title report(s), contract(s), addendum(s), and relationship disclosure will also be examined.
- B. Pending contract files are examined for compliance
- C. Pending contracts are used to determine liabilities to the sales trust account. Trust account records will be reviewed to verify all funds maintained and disbursed for pending contracts.

#### 5. Fall Through/Fail/Other Items

- A. The auditor will examine all other liabilities to the sales trust account including fall-through contracts, disputed contracts, and closed transactions with funds in trust or in the trust account.
- 6. Closed Transactions
  - A. The auditor will randomly select closed transactions from the examination period. The corresponding brokerage service agreement(s), contract(s), addendum(s), relationship disclosure, and closing statement(s) will also be examined.
  - B. Closed files are examined for compliance.
  - C. All funds deposited and/or disbursed for closed transactions are verified to trust account records.
- 7. Management Agreements
  - A. The auditor will examine all current property management agreements. If the brokerage has management agreements which are expired or canceled but were current during the examination period, these agreements may also be examined.
  - B. Management agreements are examined for compliance.
  - C. The auditor will examine property management records to determine liabilities for funds maintained on behalf of property owners. These funds could include property owner's repair funds, owners reserve funds, rents collected and not disbursed, prepaid rents, and or security deposits. These liabilities will be compared to current balances in the property management and or security deposit trust account(s).
- 11. Leases/Rental Agreements
  - A. The auditor will examine a sample of any leases or rental agreements maintained and compare the security deposit liability per the lease/rental agreement to the liability per the brokerage records.
  - B. Written relationship disclosures will be examined on all leases/rental agreements
  - C. Leases negotiated on behalf of landlords or tenants may be examined, with corresponding management agreements.

## **FREQUENTLY ASKED QUESTIONS**

### **1. Q. What happens once the auditor leaves the broker's office?**

A. The auditor will prepare a detailed written report for the brokers or brokers representatives signature. The audit is turned in to the regional supervisor who determines no further documentation or if clarification is needed. The report is finalized and sent to the audit manger for review and action. Action can range from, no action, to a letter requesting further information, or a letter asking for compliance and/or referral to the departments legal staff for licensing action or fine.

**2. Q. How long before the broker hears from the Department concerning the audit?**

A. If the auditor found minor irregularities and the broker agrees to come into compliance, the audit will be filed. If the audit is referred for legal action then the broker will hear from the department in approximately 2 to 4 months. (Last year 33 audits were referred for legal action.)

**3. Q. How will I know if the problems noted by the auditor are major or minor as compared to other audits?**

A. Conversion of trust funds, commingling of trust funds, repeated violations noted on past audits, payment of a commission to an unlicensed person or unlicensed activity are the violations referred to legal.

**4. Q. How should the broker handle an overage or shortage in the trust account(s)?**

A. The broker should identify the source of the overage or shortage and immediately take corrective action.

**5. Q. Should the broker immediately start correcting other problems found in the audit?**

A. Yes. However if the broker disagrees with the auditor findings, contact the audit manager for further review.

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<http://www.ecodev.state.mo.us/pr/restate/>